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<p>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA – LOS ANGELES DIVISION</p>	
<p>In re:</p> <p>ROSALIO CASTANEDA</p> <p>AMADA CONSEPCION CASTANEDA</p> <p>Debtor(s).</p>	<p>CASE NO.: 2:15-bk-18677-RK CHAPTER: 7</p> <p>ORDER <input type="checkbox"/> GRANTING <input checked="" type="checkbox"/> DENYING MOTION TO AVOID LIEN UNDER 11 U.S.C. § 522(f) (REAL PROPERTY)</p> <p><input checked="" type="checkbox"/> No hearing held <input type="checkbox"/> Hearing held Date: Time: Courtroom: Place:</p>
<p>Creditor Holding Lien to be Avoided (name): PORTFOLIO RECOVERY ASSOCIATES, LLC</p>	

The Motion was: ☐ Opposed ☒ Unopposed ☐ Settled by stipulation

Pursuant to 11 U.S.C. § 522(f), Debtor moved to avoid a judicial lien on real property claimed to be exempt. The court finds and orders as follows:

1. ☐ Notice of this Motion complied with LBR 9013-1(d).

2. ☐ Notice of this Motion complied with LBR 9013-1(o).
- a. ☐ There was no opposition and request for hearing.
- b. ☐ Hearing requested and held as indicated in the caption.
3. The real property to which this order applies is as follows:
- a. Street address (*specify*): 1833 West 64th Street, Los Angeles, California 90047
- b. Legal description (*specify*): APN No. 6016-004-010 ☐ See attached page
The west 34.8 feet of Lot 8 and the east 42 feet of Lot 9 of Tract No. 6596, City of Los Angeles,
State of California, as per Map Book 106 pp. 99 & 100, in the Office of the County Recorder of said County
4. Recording information regarding lien to be avoided:
- a. Date of recordation of lien (*specify*): 6/23/2011
- b. Recorder's instrument number or map/book/page number (*specify*): 20110855512
5. ☐ Motion granted:
- a. ☐ The judicial lien sought to be avoided impairs an exemption to which Debtor would otherwise be entitled under 11 U.S.C. § 522(d)
- b. ☐ The judicial lien is void and unenforceable:
- (1) ☐ In its entirety
- (2) ☐ In the following amount *only*: \$ _____. The balance of \$ _____ remains a valid and enforceable lien against the property.
6. ☒ Motion denied on the following grounds: ☐ with prejudice ☒ without prejudice
- a. ☒ **Insufficient notice (see Failure to comply with FRBP 7004(b)(3) and FRBP 7004(h) below)**
- b. ☐ Insufficient evidence of the exempt status of the property in question
- c. ☒ **Failure to comply with FRBP 7004(b)(3) or FRBP 7004(h).**
1. **Movant failed to properly serve senior lienholder, CACH, LLC, with the motion, notice and supporting documents as required by Local Bankruptcy Rule 9013-1(o) and 4003-2(c)(2), and Federal Rule of Bankruptcy Procedure 7004(b)(3). The California Secretary of State Website lists the address for the entity and agent for service of process as 12127 Berg River Cir., Fountain Valley, CA 92708.**
- d. ☒ **Insufficient evidence of fair market value.**
1. **In support of the alleged fair market value of the Property, Debtors provide a valuation from Zillow.com. Declaration of Non-Opposition at pp. 11-22 and attached Debtors' Declaration, ¶ 6. A Zillow.com opinion is neither admissible nor credible evidence of valuation of the Property for lack of qualification as expert witness, for lack of admissibility as testimony under penalty of perjury and for lack of foundation of expert opinion based on scientifically accepted method of valuation, Federal Rules of Evidence 603 and 702, and neither is the opinion of the Debtors as lay property owners unless there is a detailed explanation of how they arrived at the valuation based on scientifically accepted principles (i.e., sales comparables analysis). See In re Meeks, 349 B.R. 19, 22 (Bankr. E.D. Cal. 2006). This court generally requires an appraisal by a certified appraiser or a licensed real estate broker or agent supported by a declaration under penalty of perjury based on an appropriate sales comparables analysis to support a lien avoidance motion under 11 U.S.C. § 522(f).**
- e. ☐ Motion is incomplete.
- f.

g. ☒ **Other (specify):**

1. **The lien cannot be avoided on grounds that it impairs an exemption under 11 U.S.C. § 522(f) because the exemption claimed on Schedule C and the Motion for the Property is \$0.00 and the lien does not impair an exemption of zero.**
2. **The Motion fails to provide a declaration or other competent evidence establishing Chase Home Mortgage's unavowed lien against the Property as required by Local Bankruptcy Rule 4003-2(d)(3) (e.g., an authenticated copy of the deed of trust with recordation information).**
3. **Although Debtors provide evidence of the original amounts owned under the judgment liens of Portfolio Recovery Associates, LLC, the subject lien, and CACH, LLC and the Employment Development Department, Debtors fail to provide any credible evidence of the current amounts due and owing on such liens as required by Local Bankruptcy Rule 4003-2(d)(3).**

7. ☐ The court further orders as follows (*specify*):

☐ See attached page

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Date: November 20, 2015



Robert Kwan
United States Bankruptcy Judge